

April 2003

**COMMONWEALTH OF KENTUCKY
DEPARTMENT OF FINANCIAL INSTITUTIONS
INSTRUCTIONS FOR COMPLETION OF APPLICATION FOR:**

CHECK CASHERS/DEFERRED DEPOSIT LICENSE

Please Mail Application to:

**Department of Financial Institutions
1025 Capital Center Drive, Suite 200
Frankfort, Kentucky 40601**

THE PACKAGE YOU HAVE RECEIVED CONTAINS THE FOLLOWING PERTINENT INFORMATION NEEDED TO MAKE APPLICATION TO THE DEPARTMENT OF FINANCIAL INSTITUTIONS. **PROCESSING TIME FOR A COMPLETED APPLICATION IS APPROXIMATELY 45 DAYS.**

- A) **KENTUCKY REVISED STATUTES CHAPTER 368. PLEASE READ THIS THOROUGHLY BEFORE APPLYING FOR A LICENSE.** MANY OF APPLICANT'S PRESENT AND FUTURE QUESTIONS ARE ANSWERED IN THE STATUTES.
- B) **THE APPLICATION FORM.** THIS SHOULD BE COMPLETED **AS SPECIFICALLY INSTRUCTED**, SIGNED AND NOTARIZED.
- C) **STATE LICENSE CONFIRMATION FORM.** THIS FORM IS **ONLY** FOR APPLICANTS WHO ARE CURRENTLY LICENSED AND OPERATING IN ANOTHER STATE (S). PLEASE COMPLETE THE "APPLICANT" PORTION AND **FORWARD** TO ALL STATES APPLICABLE.
- D) **PURSUANT TO KRS 368.040 THE APPLICANT HAS A CHOICE OF A FINANCIAL INSTRUMENT REQUIRED TO OBTAIN A LICENSE.** 1) AN IRREVOCABLE LETTER OF CREDIT (ILOC), WHICH CAN BE OBTAINED FROM YOUR BANK, IS TO BE USED FOR 368.040(1)(a); 2) AN ACCOUNT PAYABLE IN A FEDERALLY INSURED FINANCIAL INSTITUTION IN THIS STATE (TO THE COMMISSIONER, DEPARTMENT OF FINANCIAL INSTITUTIONS, COMMONWEALTH OF KENTUCKY) MAY BE USED FOR 368.040(1)(b) **OR**; 3) A SAVINGS CERTIFICATE OF A FEDERALLY INSURED FINANCIAL INSTITUTION IN THIS STATE (ESCROW AGREEMENT FORM ENCLOSED) MAY BE USED FOR 368.040(1)(c). YOUR BANK SHOULD COMPLETE THE ESCROW AGREEMENT FORM.
- E) COPY OF THE JUNE 11, 1998 POLICY MEMORANDUM

THE FOLLOWING NAMES AND NUMBERS ARE LISTED FOR YOUR CONVENIENCE:

**LICENSING AND APPLICATION QUESTIONS - GARY THURMAN EXT. 251
EXAMINATION AND REGULATORY QUESTIONS - SHELBY MERRITT EXT. 253
LEGAL OPINIONS – OFFICE OF GENERAL COUNSEL EXT. 232
CONSUMER COMPLAINTS – ANDIE CUBERT EXT. 226**

**KENTUCKY SECRETARY OF STATE - 502-564-2848
KENTUCKY DEFERRED DEPOSIT ASSOCIATION – 859-252-6868**

**APPLICATION FOR A CHECK CASHERS/DEFERRED DEPOSIT TRANSACTION LICENSE
KENTUCKY CHECK CASHERS/DEFERRED DEPOSIT TRANSACTION ACT OF 1998**

COMPLETE **ALL** SCHEDULES USING AS MANY SEPARATE PAGES
AS NECESSARY TO COMPLETE APPLICATION. PLEASE NUMBER
EACH RESPONSE ACCORDING TO THE CATEGORY LISTED BELOW.
IF A QUESTION IS NOT APPLICABLE, PLEASE SO STATE.
PLEASE TYPE OR PRINT IN INK

INCOMPLETE OR UNANSWERED QUESTION MAY RESULT IN TIME
DELAYS OR RETURNED APPLICATIONS

DATE: _____

To the Commissioner, Kentucky Department of Financial Institutions:

The following hereby makes application for a license to conduct a CHECK CASHING/DEFERRED DEPOSIT
TRANSACTION business as provided in Kentucky Revised Statutes Chapter 368, **at the following principal
location***:

(Complete Legal Name of Entity to be licensed - to include Assumed Name "DBA")

(Street Address, Suite or Apartment Number)

(City or Town, County, Zip Code)

(Telephone Number)

(FAX Number)

(Name of primary contact person to discuss application questions)

***Licenses are ADDRESS specific. Please show the correct address of the proposed place of business. If you are going to lease an office, PLEASE do so now. Most landlords will offer a lease on a "contingent" basis for potential clients who are starting a business that requires licensing.**

The following schedules, which include the information required by Kentucky Revised Statutes Chapter 368, request information needed to enable the Commissioner of the Department of Financial Institutions to determine the feasibility of permitting your firm to engage in operating a check casher/deferred deposit business:

1. Please state if the Applicant is presently engaged in the business of Check Cashing or Deferred Deposit Transactions in any other state. If **YES**, list the states in which Applicant is operating, the type of license held, and the date business was commenced in these states. **Fill out the enclosed STATE LICENSE CONFIRMATION form, per instructions, and forward to all states in which you are currently licensed.**

2. a) If INDIVIDUAL (SOLE PROPRIETOR) is applying, please give complete name (first, middle/maiden, last), social security number, residence address and phone number, and business address and phone number.
- b) If PARTNERSHIP or a LLP is applying, please give complete name, social security number, residence address and phone number, business address and phone number, and PERCENT of ownership of each partner.
- c) If CORPORATION or a LLC is applying, please give complete name, social security number, residence address and phone number, business address and phone number and PERCENT of ownership of officers, directors and anyone owning more than five percent (5%).
3. a) If INDIVIDUAL is applying, please submit a copy of the required local business registration. If you are using an Assumed Name "DBA", this also has to be registered with local government and a copy sent to the Department.
- b) If PARTNERSHIP, LLP, CORPORATION or LLC is applying, please submit copies of Partnership agreements, Articles of Incorporation, etc., and related appropriate filings which have been file stamped by the KENTUCKY SECRETARY OF STATE. This includes Certificates of Assumed Name (DBA). Out of State Corporations shall obtain a Certificate of Authority to do business in Kentucky. Please include corporate tax I.D. number.
4. If the headquarters (corporate office, etc.) of the APPLICANT is located outside Kentucky, please list complete street address, mailing address (if different), phone number and fax number.
5. Submit a current (within 90 days) financial statement of the Applicant; **compiled, reviewed OR audited**, by a Certified Public Accountant. **If this is a new venture, it must be capitalized sufficiently to carry on a new business. An initial balance sheet, as well as a 12 month projected cash flow statement and business plan, must be submitted.**
6. Submit a resume of the owners and managers.
7. Submit current, signed and dated, financial statements on anyone owning more than five percent (5%) of the Applicant. This does not have to be prepared by a CPA.
8. If you are engaged, or intend to engage, in any business other than that allowed by KRS Chapter 368, please state the name and type of business conducted.
9. If any other entity is conducting business at the proposed licensed location(s), please state the name and type of business conducted.
10. APPLICANTS shall comply with all workers and unemployment compensation laws of Kentucky. Please submit copies of appropriate documentation. If this is not applicable, please explain.
11. List the name and address of any AFFILIATES (businesses with common ownership) of the Applicant.
12. Should the APPLICANT want to open additional branch offices at this time, please list the complete street address, phone number and manager's name. (Should the Applicant wish to open a branch office in Kentucky anytime in the future, please submit a written request to the Department to include the above mentioned information and the required license fee.)
13. a. Has the Applicant or any of its owners, employees, agents, officers, or directors **ever** been **convicted** in any state or federal court of any crime (not including motor vehicle traffic misdemeanors)?

YES_____ NO_____
- b. Has the Applicant or any of its owners, employees, agents, officers, or directors ever been the subject of any disciplinary actions (cease and desist orders, consent orders, injunctions, license suspensions, or revocation, etc.) by any regulatory agency, state or federal or have any of the aforementioned been associated in any capacity with a company who has been the subject of any disciplinary actions?

YES_____ NO_____

- c. Has the Applicant or any of its owners, employees, agents, officers, or directors ever been refused any license (except motor vehicle operator) by the Department of Financial Institutions or any other state or federal government agency or has such an application ever been withdrawn or have any of the aforementioned been associated in any capacity with a company who has been refused any license?

YES_____ NO_____

- d. Has the Applicant or any of its owners, employees, agents, officers, or directors ever been a party to litigation in which it was alleged that the Applicant, employee, agent, officer or director: engaged in fraudulent or dishonest conduct; failed to comply with any state or federal regulatory requirements; **or** committed any breach of contract or tort relating to their business dealings or have any of the aforementioned been associated in any capacity with a company who was alleged to be or has been found guilty of engaging in fraudulent or dishonest conduct; failed to comply with any state or federal regulatory requirements; **or** committed any breach of contract or tort relating to their business dealings?

YES_____ NO_____

If the answer to any of the foregoing is YES, explain the circumstances fully, using as many additional sheets as necessary. Please include any pertinent documentation.

14. If any of the owners of the Applicant know of any derogatory information on their personal credit report, please have the individual submit a written explanation and any pertinent documentation (paid receipts, agreed orders, etc.).
15. Please submit the required IRREVOCABLE LETTER OF CREDIT or the ESCROW AGREEMENT, pursuant to KRS Chapter 368.040.
16. Please submit a copy of the fee disclosure, to include the disclosure required by the Consumer Credit Protection Act (15 U.S.C. sec. 1601 - commonly known as REG. Z)
17. Please submit the completed application together with an investigation fee of five hundred dollars (\$500) **for each location**. This fee shall not be subject to refund, but which, if the license is granted, shall constitute the license fee for the first license year or part thereof. The check shall be made payable to the **KENTUCKY STATE TREASURER**.

IMPORTANT NOTES: (avoid violations and monetary penalties/fines – READ KRS 368)

- A) EACH LICENSEE SHALL RENEW ANNUALLY ON OR BEFORE JULY 1. RENEWAL NOTICES WILL BE SENT TO THE PRINCIPAL OFFICE. THE RENEWAL FEE WILL BE \$500 PER LICENSED LOCATION.**
- B) THE DEPARTMENT SHALL BE NOTIFIED 15 DAYS IN ADVANCE IN THE EVENT OF A NAME CHANGE OR ADDRESS CHANGE.**
- C) PURSUANT TO KRS 368.070(2), THE LICENSE IS NOT TRANSFERABLE OR ASSIGNABLE. ANY MINORITY SALE OF FIVE PERCENT (5%) OR MORE SHALL BE REPORTED TO THE DEPARTMENT PRIOR TO THE TRANSFER. ANY SALE OF MORE THAN FIFTY PERCENT (50%) MAY CONSTITUTE THE NEED FOR A NEW APPLICATION FOR LICENSING.**

SIGNATURE AND NOTARY PAGE FOR APPLICATION

AND

CONSENT TO REQUEST CREDIT REPORT

As a part of its statutory responsibility, the Department of Financial Institutions is authorized to investigate applicants to determine eligibility for licensing. The Department is authorized generally to investigate any audits, examinations, complaints, reports, etc., suggesting the possibility of unlawful activity involving regulated institutions. In the course of its investigations, the Department of Financial Institutions may procure or cause to be prepared a consumer credit report on individual(s) or entity (ties).

The undersigned has informed each and every person or entity (whose names appear on the application) involved in the proposed enterprise that the Department of Financial Institutions may procure or cause to be prepared a consumer credit report on him/her/it. The undersigned is authorized by each and every person or entity named on the application to give permission for the Department of Financial Institutions to procure or cause to be prepared such a report. In accordance with that authorization and permission, the undersigned, for himself or herself and as a representative and agent for each and every person or entity involved in this enterprise, acknowledges and gives permission for the Department of Financial Institutions to procure or cause to be prepared a consumer credit report on each and every person or entity involved in this application during the licensing process and any time thereafter should the Department be required to investigate any audits, examinations, complaints, reports, etc. Suggesting the possibility of unlawful activity.

Authorized Signature and Title

STATE OF _____
COUNTY OF _____

I, _____, hereby declare on my oath that I have
(Name of person signing application)
executed this application and that the facts stated in the application are true and correct. I further state that I have read and will comply with Kentucky Revised Statutes Chapter 368.

Signature of Applicant

Subscribed and sworn to before me this
_____ day of _____, 2____.

Notary Public - State at Large
My Commission Expires: _____



Department of Financial Institutions

1025 Capital Center Drive, Suite 200

Frankfort, Kentucky 40601

Tel e. 502/573-3390

Fax 502/573-8787

Elia D. Robinson
Commissioner

Paul E. Patton
Governor

STATE LICENSE CONFIRMATION FORM

(To be completed by APPLICANT)

(Legal Name and Address of Applicant)

is applying for a license pursuant to The Check Cashers/Deferred Deposit Act, Kentucky Revised Statutes Chapter 368. I hereby authorize _____ (Name of State) to release to the Kentucky Department of Financial Institutions any and all information requested.

(Name and Title)

(Signature)

(Date)

(To be completed by STATE AGENCY and returned to address above, attn: Gary Thurman)

- A. What type of license does the applicant currently hold? What is the issue date, license number and expiration date?
- B. If a license was issued, did your agency conduct an investigation?
- C. Does your agency conduct periodic examinations of the applicant?
- D. Have any complaints against the applicant been filed with your agency in the past three years? If yes, please give number, nature and disposition of the complaint(s).
- E. Has any disciplinary/enforcement action been taken against the applicant? If yes, please identify type, date and disposition.

Name/Title of Person Completing Form: _____

Agency Name and Phone Number: _____



Department of Financial Institutions

1025 Capital Center Drive, Suite 200

Frankfort, Kentucky 40601

Tel e. 502/573-3390

Fax 502/573-8787

Elia D. Robinson
Commissioner

Paul E. Patton
Governor

KRS CHAPTER 368
ESCROW AGREEMENT

THIS ESCROW AGREEMENT, is made and entered into this the _____ day of _____, 20____, by and between _____ (hereinafter “Applicant”) and _____ (hereinafter “Escrow Agent”), and the Kentucky Department of Financial Institutions (hereinafter “Department”).

WITNESSETH

WHEREAS, Applicant desires to obtain a license for cashing checks and accepting deferred deposit transactions within the Commonwealth of Kentucky pursuant to KRS Chapter 368; and

WHEREAS, KRS 368.040(1)(c) permits the use of a savings certificate as a deposit; and

WHEREAS, Applicant desires to meet the deposit requirements of KRS 368 through a savings certificate in the amount of _____ Dollars (\$ _____) and deposits such with the Department, which sum is hereby acknowledged by the Department to be sufficient and acceptable for the License; and

WHEREAS, the savings certificate shall be placed in the safe custody of the Escrow Agent and the Escrow Agent is hereby directed to hold the following investments:

INVESTMENT NO.	DATE OF ISSUANCE	PRINCIPAL AMOUNT
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NOW, THEREFORE, in consideration of the conditions set forth herein, the parties hereto mutually agree as follows:

1. The Escrow Agent hereby acknowledges receipt of the Investment above listed, to be safely and securely kept by it for the stated purposes of this Escrow Agreement and subject to the terms and conditions herein, and hereby binds itself to perform completely under the terms of this Escrow Agreement and to dispose of The Investment or the proceeds therefrom only as provided herein. The Escrow Agent further agrees to exercise due care in the safekeeping and delivery of The Investment;
2. Upon the Department’s written notice to the Escrow Agent of the Department’s certification of the release in whole or in part, the Applicant may direct the Escrow Agent to return the principal amount so released to the Applicant by Cashier’s Check or other similar instrument with accrued interest;

3. The Escrow Agent may rely upon the instructions of the Department executed by the Commissioner of the Department, his designee, or his successor or the successor agency as provided by law. The Escrow Agent need not verify the apparent authority of an agent of the Department in carrying out the Department's instructions. Nothing herein shall prevent the Commonwealth from designating a person authorized to act for it in any other lawful manner;
4. That for value received the Applicant does hereby assign, transfer, and set over to the Commonwealth of Kentucky all right, title and interest, which the Applicant may have in The Investment. The parties agree that The Investment is being held solely for the benefit of the Commonwealth of Kentucky and that the Applicant has relinquished all right, title and interest to The Investment as provided herein. The Applicant may not pledge or encumber in any manner The Investment. Interest earned accrues to the Applicant;
5. The Escrow Agent shall be the Department's agent for holding the Investment for the purpose of perfecting the Department's security interest in that Investment under KRS Chapter 368.
6. This Escrow Agreement shall be binding upon the successors and assigns of the respective parties; and
7. Upon receipt by the Escrow Agent of written notification by the Department of the release of the Investment herein, and disbursement pursuant to this Escrow Agreement by the Escrow Agent of The Investment or the proceeds therefrom and any interest accrued thereon, the Escrow Agent shall be discharged of any and all duties and liabilities arising out of or as a result of the Escrow Agreement.

WITNESS THE SIGNATURES OF THE PARTIES, the day and date first above written.

APPLICANT: _____
BY: _____
TITLE: _____

ESCROW AGENT: _____
BY: _____
TITLE: _____

DEPARTMENT OF FINANCIAL INSTITUTIONS
BY: _____
TITLE: _____